

Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
Florida Food Products, Inc.) File Number EB-04-TP-037
Owner of an Unregistered Antenna Structure) NAL/Acct. No.200432700015
Eustis, Florida) FRN 0001801687

MEMORANDUM OPINION AND ORDER

Adopted: December 21, 2007

Released: December 27, 2007

By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. In this Memorandum Opinion and Order, we deny the request for further reconsideration filed by Florida Food Products, Inc. ("FFP"), former owner of an antenna structure in Eustis, Florida. FFP seeks reconsideration of the Enforcement Bureau's ("Bureau") Memorandum Opinion and Order ("Order") released on September 8, 2006. In that Order, the Bureau denied FFP's petition for reconsideration of a Bureau Forfeiture Order which found FFP liable for a monetary forfeiture in the amount of three thousand dollars (\$3,000) for willful and repeated violation of Section 17.4(a) of the Commission's Rules ("Rules"), for failing to register its antenna structure.

II. BACKGROUND

2. As a result of a January 26, 2004 inspection, an agent from the Commission's Tampa, Florida Field Office ("Tampa Office") determined that FFP's antenna structure was not registered. On March 15, 2004, the Tampa Office issued to FFP a Notice of Apparent Liability for Forfeiture ("NAL") in the amount of \$3,000 for apparent willful and repeated violation of the registration requirements of Section 17.4(a) of the Rules. In its response dated March 24, 2004, FFP did not dispute the NAL's findings but argued that it was entitled to relief for attempting to comply with the Commission's registration requirements after the Tampa Office notified FFP of the lack of registration.

1 Florida Food Products, Inc., Memorandum Opinion and Order, 21 FCC Rcd 9999 (Enf. Bur. 2006).

2 Florida Food Products, Inc., Forfeiture Order, 19 FCC Rcd. 24923 (Enf. Bur. 2004)

3 47 C.F.R. § 17.4(a).

4 Because FFP's antenna structure exceeded 200 feet and was subject to Federal Aviation Administration notification, the Rules require that the structure be registered with the Commission. See 47 C.F.R. § 17.4(a); see also 47 C.F.R. § 17.7(a).

5 Florida Food Products, Inc., Notice of Apparent Liability for Forfeiture, NAL/Acct. No. 200432700015 (Enf. Bur., Tampa Office, released March 15, 2004).

3. On December 28, 2004, the Bureau released a *Forfeiture Order* which affirmed the *NAL*, and assessed a \$3,000 forfeiture to FFP for willful and repeated violation of Section 17.4(a) of the Rules. On January 13, 2005, the Commission received FFP's petition for reconsideration ("Petition"), wherein FFP notified the Commission that it had demolished the tower in September, 2004, and it further requested that the *Forfeiture Order* be revoked if possible, and if not, that it would make a partial payment of the \$3,000 forfeiture. Because FFP did not register its tower until May 17, 2004, more than three months after the Tampa Office notified it of the lack of registration on January 26, 2004, and more than six years after it was required to have its tower registration completed, the Bureau issued an *Order* on September 8, 2006, denying FFP's Petition. The Bureau stated that the Commission expects violations observed during an inspection and/or subject to enforcement action will be corrected, and found FFP's demolition of the tower to be a subsequent corrective measure not warranting cancellation or reduction of the forfeiture.⁶ On September 13, 2006, the Commission received FFP's request for further reconsideration, a note written on the Bureau *Order*, which reiterated the fact that FFP had demolished the tower several years before.⁷

III. DISCUSSION

4. At the outset, we observe that FFP in its most recent request again does not dispute that it violated Section 17.4(a) of the Rules. Specifically, FFP's request for further reconsideration consists of a hand-written note on the Bureau's *Order* which states, in its entirety: "[r]adio tower demolished about 4 years ago sent certified letter stating this Questions call 352-357-4141 ext 303 Jerry Brown Fla Food Products."⁸ "It is well settled that a petition for reconsideration which simply reiterates arguments that were previously considered and rejected will be denied."⁹ Thus, FFP's repetitive argument in support of reconsideration is not entitled to further consideration, and will be denied.¹⁰

IV. ORDERING CLAUSES

5. Accordingly, **IT IS ORDERED** that, pursuant to Section 405(b) of the Communications Act of 1934, as amended,¹¹ and Section 1.106 of the Rules,¹² the request for reconsideration filed by Florida Food Products, Inc. **IS DENIED**.

6. Payment of the three thousand dollar (\$3,000) forfeiture assessed by the *Forfeiture Order* shall be made in the manner provided for in Section 1.80 of the Rules within 30 days of the release of this *Memorandum Opinion and Order*. If the forfeiture is not paid within the period specified, the case may be referred to the Department of Justice for collection pursuant to Section 504(a) of the Act.¹³ Payment of the forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Acct. No. and FRN No. referenced above. Payment by check or money order may be mailed to Federal Communications Commission, P.O.

⁶ *Florida Food Products, Inc.*, 21 FCC Rcd at 10001.

⁷ See note written on copy of Bureau *Order* from Jerry Brown, Florida Food Products.

⁸ *Id.*

⁹ *Bennett Gilbert Gaines*, Memorandum Opinion and Order, 10 FCC Rcd 681 (1995).

¹⁰ See *Infinity Broadcasting Operations, Inc.*, Memorandum Opinion and Order, 19 FCC Rcd 4216 (2004). See also, *Electronic Engineering Company*, Order on Reconsideration, 16 FCC Rcd 5434, 5435-6 (WTB 2001).

¹¹ 47 U.S.C. § 405(b).

¹² 47 C.F.R. § 1.106.

¹³ 47 U.S.C. § 504(a).

Box 358340, Pittsburgh, PA 15251-8340. Payment by overnight mail may be sent to Mellon Bank /LB 358340, 500 Ross Street, Room 1540670, Pittsburgh, PA 15251. Payment by wire transfer may be made to ABA Number 043000261, receiving bank Mellon Bank, and account number 911-6106. Requests for payment of the full amount of the NAL under an installment plan should be sent to: Associate Managing Director – Financial Operations, 445 12th Street, S.W., Room 1A625, Washington, D.C. 20554.¹⁴

7. **IT IS FURTHER ORDERED** that a copy of this *Memorandum Opinion and Order* shall be sent by First Class and Certified Mail Return Receipt Requested to Florida Food Products, Inc., P.O. Box 1300, Eustis, Florida 32727-1300.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith
Chief, Enforcement Bureau

¹⁴ See 47 C.F.R. § 1.1914.